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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,804	11/16/2000	Richard Shann	S1022/8572	3979
7590 02/01/2008				
James H Morris Wolf Greenfield & Sacks PC 600 Atlantic Avenue Boston, MA 02210		EXAMINER KISS, ERIC B		
		ART UNIT PAPER NUMBER		
		2192		
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		02/01/2008 PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/714,804

Applicant(s)

SHANN ET AL.

Examiner

Eric B. Kiss

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



Eric B. Kiss
Primary Patent Examiner
Art Unit: 2192

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments are not persuasive.

Hadjiyiannis et al. discloses automatically tracking changes in an instruction set at least to the same extent described in applicant's limited disclosure. Notably, applicant points to page, lines 31-32 of the specification as supporting this feature. This cited portion merely expresses a preference that the assembler be able to automatically track changes in the instruction set as they occur and by itself provides no enabling disclosure necessary to support such a feature. Further, the description that follows applicant's cited portion appears to describe a manual derivation of the descriptor file from manipulation and inspection of the instruction set, and merely suggest without any additional enabling disclosure that a "utility program 31" can be used to access instruction set architecture data to provide the descriptor file. (Specification p. 9, lines 32-36.). Thus, the modification of an ISDL file in Hadjiyiannis still appears to meet this claimed feature to the extent disclosed by applicant.

Further, the assembler Hadjiyiannis comprises a descriptor file. Specifically, Hadjiyiannis discloses an assembler generator which takes an ISDL description as input and produces Lex and Yacc files which are compiled into the resulting assembler. Hadjiyiannis at section V. Vos is relied upon as teaching that descriptor file data may be output directly to a linker. Vos teaches this as a configuration object file providing output to the linker, Where the configuration object file is itself derived from the ICS integration source file.

Edmonds teaches data representative of the constraints due to the instruction set and including selected data comprising at least one encoding function for the at least one instruction set due to the changes in the instruction set. As described on p. 266 of Edmonds, the meta assemblers are specifically designed to produce multiple instructions sets. The specific hardware information provided to the meta assembler is itself representative of the differences between the plurality of target architectures as it affects the assembler requirements. Specific instruction set constraints are listed (e.g., physical lines to be controlled, fields for groups of lines, positions of fields in the bit map, a list of field names). This teaching of Edmonds may be further considered as, "containing information descriptive of the instruction set of said target microprocessor."

Applicant's arguments regarding claims 5-8 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.